IN THE

Supreme Court of the United States

OCTOBER TERM, 1921.

INDIANA MANUFACTURING COMPANY,
Appellant,
v.
ARMIN C. KOEHNE, JOSEPH E. BOSWELL, HARRY B. SMITH, et al.,
Appellees.

No. 477
Appeal from the Circuit Court of the United States for the District of Indiana.

REPLY BRIEF IN SUPPORT OF MOTION TO AFFIRM THE RULING OF THE COURT.

WILLIAM F. McNAIR,
Attorney-General of Indiana,
Counsel for Appellees.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1901.

INDIANA MANUFACTURING COMPANY, *Appellant,* v. ARMIN C. KOEHNE, JOSEPH E. BOSWELL, HARRY B. SMITH, ET AL., *Appellees.*	No. 440. Appeal from the Circuit Court of the United States for the District of Indiana.

SEPARATE MOTION OF APPELLEES TO ADVANCE THE HEARING OF THIS CAUSE.

The appellees severally and separately move the court to advance the hearing of this cause.

The appellant filed a bill of complaint against the appellees in the circuit court of the United States for the District of Indiana, praying that the appellees be enjoined from assessing or collecting or in any manner attempting to assess or collect any of the taxes upon the capital stock of the appellant company, or from entering any of the assessments upon the tax duplicates in the custody of any of the appellees. To this bill demurrers were filed and after argument, were sustained

by the court. The appellant elected to stand upon its bill of complaint, has assigned error, and has appealed to this court.

The record shows the appellant to be a corporation organized under the laws of Indiana, having a capital stock of $360,000, par value; that the appellees are the tax officers of Marion county, Indiana, and also of the city of Indianapolis, and the state board of tax commissioners of the state of Indiana. They are all of the taxing officers who have had anything to do with the taxing of the property and capital stock of the appellant company. It involves the taxation of the property and capital stock of the company for all of the years since 1893.

Appellant contends that the entire value of the capital stock of the company consists, and always has consisted, wholly of letters patent of the United States, and neither includes nor represents any other thing or matter of value, and the said company refuses to pay any taxes upon the value of the capital stock of the company; but contends that it is liable to pay taxes upon the tangible personal property only of the company.

Something over $20,000 of taxes for the years since 1893 have been levied upon the capital stock of this company, and payment thereof has been refused and is involved in this case.

Furthermore, appellees contend, severally, that not only is that amount involved here, but a vast sum of taxes due from other corporations on the capital stock of their respective companies would escape taxation if

the principle contended for here by appellant should be sustained.

It is, therefore of great importance to the state that this case be decided and decided as speedily as possible. The question here involved has never before been decided by this court. This same question was presented to this court between these same parties, but was dismissed because the amount involved did not give the court jurisdiction of this cause.

See

Holt v. Indiana Manufacturing Company, 176 U. S., page 68.

For the reason, therefore, that the whole question of the taxation of the capital stock of corporations, where a part or all of the same has been given in exchange for patent rights, or invested in patent rights, is here involved; and for the further reason that vast sums of taxable property would go off the duplicate of Indiana, as well as of other states, if the contention of appellee is sustained in its full scope, as appellee believes, and for the reason that the taxes upon this corporation alone, aggregating something over $20,000 have been accumulating for eight years, and must await the decision of this case; which question is of vital interest to the state of Indiana, as well as other states, where the same question may be presented:

Therefore, these appellees most respectfully and urgently pray severally and separately that the hearing of the above entitled cause be advanced.

WILLIAM L. TAYLOR,
ATTORNEY-GENERAL OF INDIANA,
Solicitor for Appellees.